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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,284	08/18/2003	Chandrasekhar Narayanaswami	YOR920030212US1	8157

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EXAMINER	
SHAH, AMEE A	

ART UNIT	PAPER NUMBER
3625	

NOTIFICATION DATE	DELIVERY MODE
03/21/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/643,284	NARAYANASWAMI, CHANDRASEKHAR	
	Examiner	Art Unit	
	Amee A. Shah	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 February 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3-7,10-14 and 16-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3-7,10-14 and 16-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 3-7, 10-14 and 16-20 are pending in this action.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 28, 2008, has been entered.

Examiner Note

(1) The examiner notes that the claims refer to actions performed by a web site. A web site is defined as "a group of related HTML documents and associated files, scripts, and databases that is served up by an HTTP server on the World Wide Web." (Microsoft Press Computer Dictionary, 3rd ed., Microsoft Press, Redmond, Washington, 1997, page 506.) Thus, the examiner interprets the web site as having a server serving the web site, with the web site capable of comprising routines or programs known as spiders as applicant specifies (specification, page 13). Therefore, prior art that discusses a server for a web site will be considered the same as a web site.

(2) The examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific

limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> > (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3, 6, 7, 10, 13, 14, 16, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ratliff et al., US 2003/0191725 A1 (hereafter referred to as "Ratliff").

Referring to claim 3. Ratliff discloses a method for pricing a product and/or service at a website (see, e.g., Abstract), the method comprising:

- receiving an order at a first web site directly from a buyer for a product and/or service for sale on the first web site (¶¶0008 and 0017 – note that the network node which may execute the method is the server for a website and can be operated by the airline or intermediary), wherein the product and/or service is available for purchase in one or more configurations (¶¶0035-0036 – note that the travel products i.e. airlines, car rental companies and hotels, can be

combined to form a number of travel itineraries, i.e. a plurality of configurations), and wherein the order comprises a request to purchase a selection made by the buyer for at least one of the one or more configurations of the product and/or service (¶¶0149-0150 – note the order is the travel request, i.e. itinerary, which is a selection of travel options with dates);

- instructing, by the first web site in response to receiving the order, at least one web-crawler to query at least a second website for retrieving at least one competitor's pricing information for the at least one or more configurations in the order received directly from the buyer, wherein the web-crawler retrieves the at least one competitor's pricing information after the order has been received from the buyer (¶¶0186 and 0189);

- reading, by the first website, the at least one competitor's pricing information collected from at least second web site for the at least one of the one or more configurations in the order received directly from the buyer (¶0189);

- before presenting a selling price to a buyer by the first website, calculating by the first website, the selling price for the at least one of the one or more configurations in the order received directly from the buyer of the product and/or service based on a competitor's price associated with the at least one competitor's pricing information as follows: in response to competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear, in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price, and in response to the competitor's price being lower than the lowest profitable price at the first web site, setting the selling price at the lowest profitable price (¶¶0011, 0037, 0052-0056 and 0078 – note that the price the market

depends on the market and can be the price that the buyer is willing to purchase at, the price that the agent has negotiated with, the price that reflects a minimum profit margin, or a number of other prices, that profitable means simply that no loss occurs, and that the companies decide which rules they want to apply to pricing including profitability, competitiveness, revenue goals, or other factors such as marketing opportunities). Ratliff also discloses that it is old and well known in the art for suppliers to research their competitors' prices and set their own prices accordingly (¶¶0010-0011) and that the invention of Ratliff facilitates suppliers to do this electronically (¶0011); and

- presenting, by the first website, the at least one of the one or more configurations of the product and/or service which has been ordered for the selling price which has been calculated based on the competitor's price (¶0191).

Referring to claim 6. Ratliff further discloses the method of claim 3 wherein the product and/or service having a plurality of configurations is any one of: furniture, a computer, a car, and a boat (¶0035 – note the method can apply to any product including automobiles and other retail goods and that Ratliff specifically discusses the method in relation to automobiles).

Referring to claim 7. Ratliff further discloses the method of claim 6 wherein each of the first web site and the second web site are an e-commerce web site (¶0189).

Referring to claims 10, 13, 14, 16, 19 and 20. All of the limitations in apparatus claims 10, 13, 14, 16, 19 and 20 are closely parallel to the limitations of method claims 3, 6 and 7, analyzed above and are rejected on the same bases.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4, 5, 11, 12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ratliff in view of Maritzen et al., US 2002/0052797 A1 (hereafter referred to as "Maritzen").

Referring to claim 4. Ratliff teaches the method of claim 3, as discussed above, wherein buyer information is used to personalize the shopping experience (e.g. ¶0057 – detecting the shopper is a frequent flyer of a particular airline), but does not specifically teach wherein the selling price is further adjusted based on information associated with the buyer of the product/service on the first web site. Maritzen teaches a method and system for customizing prices of a product or service including wherein the customization is based on a price factor that includes information associated with a buyer of the product and/or service on the first web site

(¶0010 – note the information can be historical purchase activity or group to which user is a member).

It would have been obvious to one of ordinary skill in the art of business methods at the time of the invention to apply the step of adjusting the selling price based on buyer information, as taught by Maritzen, to improve the commerce method of Ratliff of offering adjusting the shopping experience based on customer information, for the predictable results of allowing for the price to be set in a way that is likely to induce the customer to buy, as suggested by Maritzen (¶0009).

Referring to claim 5. Ratliff and Maritzen further teach the method of claim 4 wherein the information associated with the buyer of the product and/or service on the first web site includes any one of: the volume of the product and/or service that is being purchased by the buyer; the number of orders previously placed by the buyer on the first web site; the type of equipment owned by the buyer; and the classification of the buyer (Maritzen, ¶¶0010 and 0039 – note the volume of product and number of orders in included in purchase history, and is also the quantity of product to be purchased and the classification of buyer is the group membership).

Referring to claims 11, 12, 17 and 18. All of the limitations in apparatus claims 11, 12, 17 and 18 are closely parallel to the limitations of method claims 4 and 5, analyzed above and are rejected on the same bases.

Response to Amendment

Applicant's Amendment, filed February 5, 2008, has been entered. Claims 3, 10 and 16 have been amended.

Response to Arguments

Applicant's arguments, see Remarks of February 5, 2008, with respect to claims 3-7, 10-14 and 16-20 have been considered but are moot in view of the new ground(s) of rejection necessitated by the amendments. Nonetheless, the examiner will discuss applicant's arguments relevant to the prior art cited.

In response to applicant's argument that the prior art does not teach the elements of the claim occurring at the web site where a buyer has placed the order (Remarks, pages 9, 11 and 12), the examiner disagrees. Ratliff discloses that the network node performing the elements including instructing a spider or web bot to crawl for prices and which serves the web site served the by the network node can reside with the airline or intermediary where a buyer has placed the order (Fig. 3 and ¶¶0148-0151).

In response to applicant's argument that an order is not an inquiry but rather a purchase of an item and Ratliff does not teach this (Remarks, pages 10, 14 and 15), applicant is relying upon a feature not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims specifically define an order as a request for a product, i.e. an inquiry. Furthermore, the specification also makes clear

that no actual purchase is made until after prices are revealed (page 19). Thus, the order is merely a request or inquiry for a product. Ratliff teaches receiving a request for a selection of configurations of a product that can be for the intended use of purchasing it, as discussed above.

In response to applicant's argument that Ratliff does not teach receiving an order at a first web site when the order comprises a request to purchase (Remarks, page 14), the examiner disagrees. Ratliff teaches receiving a request to purchase travel-related products in one or more configurations, as discussed above.

In response to applicant's argument that Ratliff does not teach the research and price adjustment being performed by a website (Remarks, page 15), the examiner disagrees. Ratliff discusses that is it old and well known the research competitors' prices and teaches a way to facilitate that electronically through a website spider, as discussed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is (571)272-8116. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAS

March 10, 2008

/Yogesh C Garg/
Primary Examiner, Art Unit 3625